IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.1082 OF 2002

Shri Ramnihar J. Pal ..Petitioner.

V/s.

Alibhai Jivan & Sons & Ors. ..Respondents.

Mr.N.M.Ganguli for petitioner.

Mr.Mahesh Londhe i/b. M/s. Sanjay Udeshi & Co. for respondents.

CORAM : V.C.DAGA, J.

DATED : 4TH APRIL, 2006.

P.C. :-

Heard.

2. Rule, returnable forthwith.

3. Mr.Mahesh Londhe waives service for the respondents.

4. Heard finally by consent of the parties.

5. This petition is directed against the order dated 17/11/2001 passed by the Second Labour Court, Thane in Misc. Application (IDA) No.30 of 2000 arising

out of Reference (IDA) No.173 of 1994 whereby ex-parte order dated 4/11/1997 passed by the IInd Labour Court, Thane was set aside and reference restored to its file for being considered on merits.

6. Mr.Ganguli, the learned counsel appearing for the petitioner submits that considering section 26(2) of the Industrial Disputes (Bombay) Rules, 1947, a copy of the award is required to be served on the respondent. It is not in dispute that the award was served on the respondent employer on 30th December, 1999. The application for setting aside the ex-parte award was taken on 15th September, 2000. Thus, it is clear that the application for setting aside the ex-parte order taken out by the respondent was beyond time. Such an application is not maintainable in the light of the view taken in the case of **Shri Radhakrishna Mani Tripathi, Mumbai V/s. L. H. Patel & Anr.** reported in **2006 I C.L.R. 743**. For the reasons recorded in the aforesaid Judgment and in view of the admitted facts, there is no option but to quash and set aside the order dated 17/11/20001 and make the rule absolute in terms of prayer clause (a).

7. Petition accordingly stands disposed of. Rule is made absolute in terms of prayer clause (a) with no

order as to costs.

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